

POLICY

BARNEGAT TOWNSHIP BOARD OF EDUCATION

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Competitive Procurement of
Professional Services Contracts

Public bidding and competitive contracting models meet the requirements of a "fair and open" process. The \$17,500.00 contract amount is fixed and is not related to the Board's bid threshold. Therefore, "non-fair and open" contracts awarded with an anticipated value in excess of \$17,500.00 and under the established bid threshold are subject to the disclosure requirements of N.J.S.A. 19:44A-20.26. In addition, the \$17,500.00 contract amount threshold is subject to the principle of aggravation rules in N.J.A.C. 5:34-8.2 et seq. as defined by the Division of Local Government Services.

The disclosure provisions of N.J.S.A. 19:44A-20/26 do not apply in those cases where there is a "public emergency" that requires the immediate delivery of goods or services.

Disclosure of Contributions to Election Law Enforcement Commission (ELEC)

In accordance with the provisions of N.J.S.A. 19:44A-20.27 et seq., any business entity making a contribution of money or any other thing of value, including an in-kind contribution, or pledge to make a contribution of any kind to a candidate for Board of Education or Board Member, or to a political party committee, legislative leadership committee, political committee or continuing political committee, which has received in any calendar year \$50,000.00 or more in the aggregate through agreements or contracts with a public entity, shall file an annual disclosure statement with the New Jersey Election Law Enforcement Commission (ELEC) setting forth all such contributions made by the business entity during the twelve months prior to the reporting deadline.

Bid and proposal specifications and contracts may include the following clause to notify business entities of their potential obligation under the law:

A "business entity," as defined in N.J.S.A. 19:44A-20.7, is advised of the responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Enforcement Commission pursuant to N.J.S.A. 19:44A-20.13 if the business entity receives contracts in excess of \$50,000.00 from public entities in a calendar year. It is the business entity's responsibility to determine if filing is necessary. Additional information on this requirement is available from the New Jersey Election Enforcement Commission.



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Limitations on the Award of Certain Contracts

N.J.S.A. 40A:11-51 authorizes a Board of Education to establish by Policy, as may be appropriate, measures limiting the awarding of public contracts to business entities that have made a contribution pursuant to N.J.S.A. 19:44A-1 et seq. and limiting the contributions that the holders of a contract can make during the term of a contract, notwithstanding the provisions and parameters of N.J.S.A. 19:22A-20.1 and N.J.S.A. 19:44A-22.

The Board of Education will not award any "non-fair and open process" contract to a contractor if that contract has an anticipated value in excess of \$17,500.00 if the contractor made a reportable contribution to any sitting Board member's election or re-election campaign. Furthermore, a contractor awarded a "non-fair and open process" contract with an anticipated value in excess of \$17,500.00 may not make a reportable contribution to any Board member's re-election campaign during the term of the contract. A contractor who receives such contract will be required to certify, prior to such contract being awarded that no reportable contributions were made during the one year preceding the award of the contract.

A Board of Education member will not participate in any discussions and will not vote on any "non-fair and open process" contract to a contractor if that contract has an anticipated value in excess of \$17,500.00 if the contractor made a reportable contribution to the Board member's campaign for membership to the Board.

"Reportable contribution" is one that is reportable by the recipient under the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 44A-1 et seq. When a business entity is also a natural person, a contribution by that person's spouse or children residing with the natural person shall be deemed contributions by the business entity. When the business entity is other than a natural person, a contribution by any person or other business entity having an interest shall be deemed to be a contribution by the business entity.

"Interest" means the ownership of control of more than 10% of the profits or assets of a business entity or 10% of the stock in the case of a business entity that is a corporation for profit, as appropriate.



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The Board of Education will file this policy with the Secretary of State at the office of the Secretary of State, Laws and Commission.

Any business entity that fails to comply with the provisions of N.J.S.A. 19:44A-20.26 or N.J.S.A. 19:44A-20.27 shall be subject to a fine imposed by the New Jersey Election Law Enforcement Commission.

N.J.S.A. 19:44A-1 et seq.

Adopted: March 29, 2006

